

# EXHIBIT 16

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO  
BEFORE THE HONORABLE VICTOR M. HWANG, JUDGE  
DEPARTMENT 17

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PEOPLE OF THE STATE OF )  
CALIFORNIA, )  
 )  
People, )  
 ) CASE NO. 24006870  
v. )  
 )  
LUIS ALFREDO ROSALES VERDE, )  
 )  
Defendant. )

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TRANSCRIPT OF PROCEEDINGS

ARRAIGNMENT HEARING

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APRIL 17, 2024

APPEARANCES:

FOR THE PEOPLE: UNKNOWN UNKNOWN, ESQ.  
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San Francisco, CA 94103

FOR THE DEFENDANT: LEO D. FISSEL, ESQ.  
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TRANSCRIBED BY: SOPHIA LONG



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SESSIONS

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AFTERNOON SESSION

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1 SAN FRANCISCO, CALIFORNIA - WEDNESDAY, 17 APRIL 2024

2 AFTERNOON SESSION

3 (PROCEEDINGS IN OPEN COURT)

4 (Call to order at 2:27 p.m.)

5 THE COURT: Yes. And who do we have?

6 THE CLERK: Line 2 on the afternoon arraignment  
7 calendar?

8 THE COURT: After 2 -- line 2 on the afternoon  
9 arraignment calendar is a matter of Luis Alfredo Rosales  
10 Verde.

11 Good afternoon. I'll appoint the Public Defender's  
12 Office.

13 May I have appearances of counsel and our  
14 interpreter?

15 UNIDENTIFIED SPEAKER: (Indiscernible) for the  
16 People.

17 MR. FISSEL: Leo Fissel, Deputy Public Defender for  
18 Mr. Rosales Verde, who's present before the Court, being  
19 assisted by the Spanish language interpreter.

20 THE COURT: Thank you.

21 MR. FISSEL: Just a single-count violation of a  
22 Superior Court protective order, a stay-away order.

23 THE COURT: Okay.

24 MR. FISSEL: I'm hoping the Court will follow the  
25 PSA.

26 THE COURT: My indicated is ACM and GPS for  
27 violating the Court's order.

28 MR. FISSEL: I figured it would be. I don't know



1 that ACM is warranted at this point; there aren't services  
2 that Mr. Rosales Verde needs. I'm planning on sending this  
3 case to trail the felony case. It looks like those will  
4 resolve. The -- I don't believe Mr. Rosales Verde needs the  
5 GPS at this point. We're talking about -- we spoke about the  
6 distance and what that means and really all the details about  
7 maybe that's a block and a half in any direction.

8 THE COURT: He actually had narcotics on him.

9 MR. FISSEL: He did not. He did not have narcotics  
10 on him. They are drugs on the ground. If he had narcotics on  
11 him, he would have been charged with it, Your Honor.

12 UNIDENTIFIED SPEAKER: Well, they located several  
13 small press-locked baggies with off-white powdery substance  
14 that was not enough, probably, to charge and several clear  
15 plastic baggies inside of those -- that initial bag.

16 MR. FISSEL: Not what they said. They said they  
17 didn't see who -- how it got on the ground, so they didn't  
18 charge it. Not that the amounts weren't enough. It's stated  
19 a couple of times in the police report.

20 THE COURT: All right. I'm going to put him on  
21 O.R., but I am going to impose a GPS since he's in violation  
22 of the Court's order already.

23 MR. FISSEL: Your Honor, the GPS is incredibly  
24 invasive. It's a violation of his Constitutional rights.  
25 This is a nonviolent case. We really have talked about all  
26 the details, and I'll say it didn't seem like Mr. Rosales  
27 Verde really understood what that distance was. He does now.  
28 But the Spanish interpreter and I, we talked about feet. We

1 talked about meters. We talked about yards. He gets it. He  
2 does not want to come back here.

3 THE COURT: I'm trying to be consistent in how I  
4 enforce this.

5 MR. FISSEL: But consistency isn't what's required,  
6 right? It's a unique situation for every case because every  
7 case is unique. It's an evaluation of every situation as it  
8 arises.

9 THE COURT: In every case I've arraigned over the  
10 last year and a half in Department 10, if there's a violation  
11 of a stay away, the Court imposes GPS to enforce the stay  
12 away.

13 MR. FISSEL: And I understand that, but that's  
14 not -- that's just the Court's policy, and I actually think  
15 it's unconstitutional because --

16 THE COURT: I think it's the less restrictive  
17 alternative, right? We've ordered him once; he hasn't  
18 complied. So at this point, I need to have some further  
19 enforcement.

20 MR. FISSEL: And Your Honor, if this were a case  
21 with someone with all kinds of stay-away violations, with  
22 sales convictions, with all that, I'd understand it. But this  
23 is a first violation of a stay-away order, and it's a  
24 nonviolent one.

25 THE COURT: I understand that. I think that would  
26 go towards the length of time that I would keep him on GPS,  
27 but at least initially, I am going to impose the GPS. You  
28 can -- if he doesn't want to agree to the 1035, the



1 alternative is to order an ICR.

2 MR. FISSEL: Is this a case where the Court believes  
3 the 1035 is warranted?

4 THE COURT: I'm not separately ordering a Court  
5 1035, but I would indicate to Mr. Rosales Verdes that, if he  
6 wants to participate in the sheriff's program, they do require  
7 him to submit his person, his residence, his vehicle, any area  
8 under his control to a search at any time of the day or night,  
9 with or without a warrant, with or without his consent, with  
10 or without reasonable suspicion or probable cause.

11 MR. FISSEL: So this 1035 isn't what the Court is  
12 imposing, but he's being required to submit to it in order to  
13 participate in the sheriff's release program; is that correct?

14 THE COURT: What I would -- I don't know that I  
15 would make a specific finding. I think the sheriff's  
16 position, as I understand it -- I would agree with this part  
17 of it -- is that wearing an electronic bracelet is a 1035.  
18 You are submitting yourself to constant search --

19 MR. FISSEL: You're submitting --

20 THE COURT: -- I think is required as part of the  
21 program. I'm not imposing some of the additional conditions  
22 that the sheriff's department wants in terms of sharing the  
23 location with other agencies and things like that, but I  
24 think, inherently, they require somebody to check-ins when  
25 they're on electronic monitoring -- sort of a random check-in.  
26 They do pat searches and things like that for officer safety  
27 reasons when they're in facilities. These are the conditions  
28 of their program.

1 MR. FISSEL: So pat search is different than a 1035,  
2 and submitting someone to geolocation is different than a  
3 warrantless search of their entire person and all of their  
4 belongings. Does the Court agree with that?

5 THE COURT: I do.

6 MR. FISSEL: Okay.

7 THE COURT: I'm not imposing any additional search  
8 conditions because my main interest is enforcing the stay-away  
9 order through the electronic monitoring.

10 MR. FISSEL: So given that Mr. Rosales Verde is  
11 being required to submit to a 1035 in order to participate  
12 with the sheriff's program, even though the Court's not  
13 imposing that on its own, would the Court grant a O.S.C. --  
14 the sheriff's department to show cause for this program?

15 THE COURT: No. I'd be happy to strike the language  
16 on the form if you want.

17 MR. FISSEL: No, I don't want you to do that because  
18 we know where that ends with Mr. Rosales Verde staying in  
19 custody.

20 UNIDENTIFIED SPEAKER: Um-hum.

21 MR. FISSEL: We'll just object to this.

22 THE COURT: Sure.

23 MR. FISSEL: And where our objection is under People  
24 v. Welch. It's a 1993 case -- 5 Cal.4th 228. And with that,  
25 we'll submit, Your Honor.

26 THE COURT: Okay. So I'm going to release him O.R.  
27 with GPS monitoring.

28 THE CLERK: So report and release?





1 THE COURT: Yes. Actually, it's release contingent.

2 THE CLERK: Okay.

3 THE COURT: That's it. They're going to put him

4 on --

5 How does he want to proceed in terms of time?

6 MR. FISSEL: Your Honor, we are going to send this

7 case to trail Mr. Rosal --

8 THE CLERK: In Department 9 --

9 MR. FISSEL: Thank you.

10 THE CLERK: May 6.

11 MR. FISSEL: Thank you.

12 THE COURT: All right. General time we have for May  
13 6, 9:00 in Department 9. Do you know if he's ordered present?

14 THE CLERK: Yes.

15 THE COURT: I'll order him present to join his other  
16 matter.

17 MR. FISSEL: 5/6 in Department 9.

18 (Proceedings adjourned at 2:35 p.m.)

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## CERTIFICATION

I, SOPHIA LONG, a court-approved transcriber, do hereby certify that the foregoing transcript, pages 1 through 9, is a correct transcript from the official electronic sound recording of the proceedings in the above entitled matter, to the best of my professional skills and abilities.

*Sophia Long*

Sophia Long  
Digital Court Transcriber

April 23, 2024

